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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of Preparation for)
International Telecommunication) IC Docket No. 94-31
Union World Radiocommunication)
Conference)

**REPLY COMMENTS OF THE ASSOCIATION
FOR MAXIMUM SERVICE TELEVISION, INC.**

The Association for Maximum Service Television, Inc. ("MSTV") hereby files reply comments in response to the Notice of Inquiry, IC Docket No. 94-31, released in the above captioned docket on May 5, 1994 (the "Notice").^{1/}

I. Broadcast auxiliary spectrum is crucial to the delivery of free, universally-available, local television service.

MSTV and the Joint Commenters explained in their initial comments that the 1990-2110 MHz band is currently used domestically for broadcast auxiliary operations, including electronic news gathering, intercity relays, and studio-to-transmitter links. See Joint Comments of MSTV and Other Major Television Broadcasting Entities, IC Docket No. 94-31, at 3-8 (July 19, 1994) (the "Joint Comments"). The Joint Commenters also demonstrated that existing auxiliary broadcast spectrum

^{1/} MSTV filed initial comments in conjunction with Capital Cities/ABC, Inc.; CBS, Inc.; FOX, Inc. & Fox Broadcasting Stations, Inc.; the National Association of Broadcasters; National Broadcasting Company, Inc.; Public Broadcasting Service; the Radio-Television News Directors Association and the Society of Broadcast Engineers, Inc. (the "Joint Comments"). Because of the difficulties in coordinating a joint response in the short time available for preparing replies, MSTV is filing these separate reply comments.

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is insufficient to meet the existing demands of television broadcasters, let alone future needs. Id.

Significantly, in this inquiry and elsewhere,^{2/} the fact that broadcast auxiliary spectrum in the 2 GHz band is already overtaxed, and that further crowding will create a significant risk of service disruption (particularly in larger metropolitan markets) is uncontroverted. Indeed, both the American Mobile Satellite Corporation ("AMSC") and Motorola tacitly acknowledge that existing broadcast auxiliary spectrum is overburdened. Comments of AMSC, IC Docket No. 94-31, at 12-13 & 13 n.28 (July 15, 1994); Comments of Motorola Satellite Communications, Inc. and Iridium, Inc., IC Docket No. 94-31, at 10 n.3 (July 15, 1994) (the "Motorola Comments").

In light of this state of affairs, the Commission should take heed of AMSC's technical study. This study found that "[i]t appears impossible for MSS service links to share with Broadcast Auxiliary" because MSS operations will cause

^{2/} See Comments filed in Amendment of the Commission's Rules to Establish New Personal Communications Services, ET Docket 90-314; Comments filed in Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, ET Docket 92-9; see also Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, (NPRM), 7 FCC Rcd 1542, 1544 (1992) (noting need for spectrum in the 1990-2110 MHz band for broadcast auxiliary operations); "Creating New Technology Bands for Emerging Telecommunications Technologies," FCC/OET TS92-1 (January 1992) (same); cf. Amendment of the Commission's Rules to Establish New Personal Communications Services, 5 FCC Rcd 3995, 3998 (1990) (seeking comment on the feasibility of allocating spectrum in the 1990-2110 MHz band to PCS).

significant interference to broadcast auxiliary operations. AMSC Technical Statement, at 7 (appended to AMSC's comment). The AMSC study confirms what MSTV has long believed: spectrum sharing in the 1990-2010 MHz band between MSS and broadcast auxiliary operations is not feasible.^{3/}

Clearly, reducing the amount of auxiliary spectrum available to broadcasters is not a viable solution to providing MSS with adequate spectrum. The fact of the matter is that more, rather than less, spectrum is needed to facilitate broadcast auxiliary operations; the Commission should not support an international allocation that would be inconsistent with this domestic imperative.

II. The United States should advocate study of alternate bands of spectrum for MSS operations at WRC-95 and/or WRC-97.

Several commenters have suggested that the allocation of the 1970-1990 MHz band for PCS in the United States may require that the WARC-92 MSS allocations be modified.^{4/} See, e.g., Comments of AMSC, at 11-13; Comments of Loral/Qualcomm, at 3, 18-20; Comments of Motorola, at 9-11. They further stated that implementing the WARC-92 1970-1990 MHz band allocation in the United States will be difficult, if

^{3/} See Reply Comments of MSTV, ET Docket No. 93-198 (July 29, 1993).

^{4/} See Amendment of the Commission's Rules to Establish New Personal Communications Services, (Memorandum Opinion and Order), Gen. Docket No. 90-314 (adopted June 9, 1994, released June 13, 1994); "FCC Adopts Modification to PCS Band Plan," Report No. DC-2613, 1994 FCC Lexis 2592 (June 9, 1994).

not impossible. In consequence, WRC-95 and/or WRC-97 should probably consider identifying alternate global spectrum allocations for MSS.

However, some of the specific proposals offered by the commenters are quite problematic. AMSC urges that the United States should support a WRC allocation of the 1990-2025 MHz band to MSS. Comments of AMSC, at 12. Likewise, Motorola has endorsed allocating the 1990-2025 MHz band to MSS. Comments of Motorola, at 10 & 10 n.3. Evidently recognizing that broadcasters will require replacement spectrum for broadcast auxiliary operations, Motorola proposes moving such operations to the 2110-2145 MHz band; AMSC suggests that broadcast auxiliary operations should be shifted to the 2110-2130 MHz band and the 4660-4685 MHz band.^{5/} Comments of Motorola, at 10 n.3; Comments of AMSC, at 13 n.28.

MSTV opposes the AMSC/Motorola proposals. Although AMSC and Motorola are correct in their assertion that additional spectrum for broadcast auxiliary operations will be needed, they have not explained adequately why less burdensome (and costly) alternatives to relocating auxiliary broadcast operations could not be used to meet the needs of the MSS industry.

^{5/} The 4660-4685 MHz band is currently allocated to government use; however, NTIA has designated the band for transfer to private sector applications. See Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, (NOI), ET Docket No. 94-32 (adopted April 20, 1994, released May 4, 1994). The 2110-2130 MHz band is presently allocated to fixed microwave services. See 47 C.F.R. § 2.106 (1994).

Plainly, the relocation of broadcast auxiliary services is not necessary. AMSC, one of the principal proponents of such an allocation, concedes in its comments that MSS operators themselves could operate successfully in the 2110-2130 MHz band. Comments of AMSC, at 13. "[A]n MSS uplink allocation at 2110-2130 MHz could be established by WRC-95 for use in connection with the 2160-2180 MHz downlink band." Id. Thus, even MSS proponents have acknowledged that access to spectrum in the 1990-2110 MHz band is not essential for MSS.

III. The disparity between existing domestic allocations and the WARC-92 MSS spectrum allocation must be resolved.

The problems resulting from the Commission's decision to allocate the 1970-1990 MHz band for PCS, rather than MSS, demonstrate quite clearly the need for closer coordination between global and domestic spectrum allocations. Clearly, actions that ignore or fail to resolve conflicts between existing domestic spectrum allocations and global allocations are generally counterproductive, and, more often than not lead to delay in the introduction of new technologies and services, such as MSS.

Some commenters have proposed WRC allocations for MSS in bands outside the domestic broadcast auxiliary spectrum. For example, Loral/Qualcomm has proposed a global allocation of the 2390-2417 MHz band for MSS operations. Comments of Loral/Qualcomm, at 3, 19. MSTV believes that Loral/Qualcomm's proposal could potentially resolve the

existing conflict between the domestic allocation of the 1990-2010 MHz band and the WARC-92 allocation. The proposal appears to have merit and therefore deserves close study, particularly in light of NTIA's recent decision to make the 2390-2417 MHz band available for non-government use. Indeed, the Commission itself has advocated an international allocation of this band to MSS operations at prior ITU meetings. See Notice, at ¶ 27. Regardless of the ultimate merits of the Loral/Qualcomm proposal, it is clear that an allocation in the 1990-2025 MHz band for MSS is not necessary.

In light of the comments suggesting that spectrum outside the 1990-2110 MHz band would be appropriate for MSS operations, it is clear that further study is needed to determine the viability of the 2390-2417 MHz and 2110-2130 MHz bands for MSS before the United States advocates a global allocation in the 1990-2025 MHz band at WRC-95.^{6/}

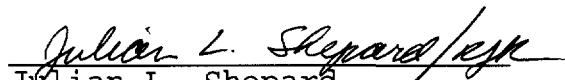
^{6/} Any reallocation of the 1990-2010 MHz band is unwise. Motorola points to an additional reason why, at the very least, the effective date of this allocation should not be accelerated from 2005 to 1996 in Regions 1 and 3, and should be delayed in Region 2. See Comments of Motorola, at 6-7 ("Motorola would support moving the January 1, 1996 date for the U.S. back to 2005" in order to facilitate the FPLMTS standard setting process); cf. Comments of Constellation Communications, Inc., IC Docket No. 94-31, at 7-8 (July 15, 1994) (urging acceleration of effective date); Comments of Ellipsat Corp., IC Docket No. 94-31, at 10-11 (July 15, 1994) (same); Comments of Hughes Space and Communication, IC Docket No. 94-31, at 5-6 (July 15, 1994) (same). As MSTV has stated previously, accelerating the implementation date of the 1990-2010 MHz WARC-92 allocation is unwise because of the conflict that exists between the existing domestic allocation of this band and the WARC-92 allocation. See Reply Comments of MSTV, ET Docket No. 93-198 (July 29, 1993). Although MSTV continues (continued...)

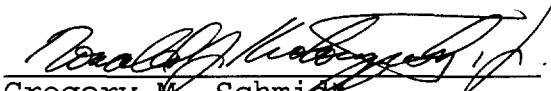
CONCLUSION

The United States should proceed cautiously at WRC-95. MSTV believes that the United States delegation should encourage and facilitate discussion of MSS spectrum allocation options at WRC-95. However, MSTV urges that the United States not endorse any particular new global MSS spectrum allocations until the viability of such allocations domestically is carefully examined.

Respectfully submitted,

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to believe that the conflict between the domestic and WARC-92 allocations presents sufficient reason for caution in accelerating the effective date, Motorola's concerns provide yet another reason for approaching this issue in a deliberate fashion.